

**Freedom of Information Act 2000 (FOIA)  
Environmental Information Regulations 2004 (EIR)**

**Decision notice**

**Date:** 22 February 2012

**Public Authority:** Wigan Metropolitan Borough Council  
**Address:** Town Hall  
Library Street  
Wigan  
WN1 1YN

**Decision (including any steps ordered)**

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1. The complainant requested access to view electronic records for three named properties in relation to questions contained within the con29 form (which relates to environmental property questions).
2. The Information Commissioner's decision is that Wigan Metropolitan Borough Council (WMBC) breached regulation 5(1) of the Environmental Information Regulations (EIR) by failing to make the requested information available and regulation 5(2) by failing to respond within 20 working days.
3. The Information Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Provide a substantive response to the complainant compliant with regulation 5(1).
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Information Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## Request and response

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5. On 8 March 2011, the complainant wrote to WMBC and requested information in the following terms:

*"As all the records are held electronically, I would like to view the electronic records as soon as possible to deduce the answers to the previously stated con29 questions for the following properties."*

6. To date, WMBC has not responded to the complainant.

## Scope of the case

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7. The complainant contacted the Information Commissioner to complain about the way his request for information had been handled. He was dissatisfied with the lack of a response from WMBC.

## Reasons for decision

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8. Regulation 5(1) of the EIR states that:

*"Subject to paragraph (3) and in accordance with paragraphs (2), (4), (5) and (6) and the remaining provisions of this Part and Part 3 of these Regulations, a public authority that holds environmental information shall make it available on request."*

9. WMBC, to date, has not responded to the complainant and therefore has failed to make information available on request.

10. Regulation 5(2) of the EIR states that:

*"Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request."*

11. WMBC has failed to comply with regulation 5(2) by not providing a response within the statutory time limit.

## Right of appeal

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12. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

13. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
14. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Gerrard Tracey**  
**Principal Policy Advisor**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**